

**STATE OF INDIANA
Board of Tax Review**

GOSPEL ASSEMBLY CHURCH,)	On Appeal from the Marion County
)	Property Tax Assessment Board
Petitioner,)	of Appeals
)	
v.)	Petition for Review of Assessment
)	Form 132
MARION COUNTY PROPERTY TAX)	
ASSESSMENT BOARD OF APPEALS,)	Petition No. 49-500-96-2-8-00008
)	Parcel No. 5028861
Respondent.)	

Findings of Fact and Conclusions of Law

On January 1, 2002, pursuant to Public Law 198-2001, the Indiana Board of Tax Review (IBTR) assumed jurisdiction of all appeals then pending with the State Board of Tax Commissioners (SBTC), or the Appeals Division of the State Board of Tax Commissioners (Appeals Division). For convenience of reference, each entity (the IBTR, SBTC, and Appeals Division) is hereafter, without distinction, referred to as "State". The State having reviewed the facts and evidence, and having considered the issues, now finds and concludes the following:

Issue

Whether the land and improvements owned by Gospel Assembly Church qualifies for property tax exemption pursuant to Ind. Code § 6-1.1-10-16 for religious purposes.

Findings of Fact

1. If appropriate, any finding of fact made herein shall also be considered a conclusion of law. Also, if appropriate, any conclusion of law made herein shall be considered a finding of fact.

2. Pursuant to Ind. Code § 6-1.1-11-3, Gospel Assembly Church filed an application for property tax exemption with the Marion County Board of Review (BOR) on May 10, 1996. The BOR issued its decision on June 28, 1996, and gave Gospel Assembly proper notice of the decision.
3. Pursuant to Ind. Code § 6-1.1-11-7, Gospel Assembly filed a Form 132 petition seeking a review of the BOR action by the State. The Form 132 petition was filed July 2, 1996.
4. Pursuant to Ind. Code § 6-1.1-15-4, a hearing was held on June 16, 1997, before Hearing Officer Kay Schwade. Testimony and exhibits were received into evidence. Luther F. Poynter, Church Business Consultant, appeared on behalf of the petitioner. Liz Keele, Deputy Assessor, was present on behalf of the County BOR.
5. At the hearing, the subject Form 132 petition and attachments were made part of the record and labeled Board Exhibit A. The Notice of Hearing on Petition was labeled Board Exhibit B. In addition, the following items were received into evidence:
 - Petitioner Exhibit 1 – Letter from Marion County BOR, financial summary sheets for 1993, 1994, & 1995, and letter of explanation from Church Secretary.
 - Petitioner Exhibit 2 – Financial data for 1996
 - Petitioner Exhibit 3 – Articles of incorporation
6. The subject property is located at 5809 Bluff Road, Indianapolis, Indiana, Marion County, Perry Township. Exemption is sought for assessment year 1996, with taxes due and payable in 1997.
7. The Hearing Officer did not view the property.

8. The property under appeal consists of land and a church building. The Marion County BOR granted 100% exemption on the land but only a partial exemption on the building. The subject property is an apartment within the church building that was previously used as a parsonage.
9. At the time of the appeal, the apartment was being used to house visiting ministers approximately 2 to 3 times a month, at no cost to the guest ministers.

Conclusions of Law

1. The State is the proper body to hear an appeal of the action of the County pursuant to Ind. Code § 6-1.1-15-3.

A. Burden In General

2. In reviewing the actions of the County Board (or PTABOA), the State is entitled to presume that its actions are correct. “Indeed, if administrative agencies were not entitled to presume that the actions of other administrative agencies were in accordance with Indiana law, there would be a wasteful duplication of effort in the work assigned to agencies.” *Bell v. State Board of Tax Commissioners*, 651 N.E. 2d 816, 820 (Ind. Tax 1995). The taxpayer must overcome that presumption of correctness to prevail in the appeal.
3. The taxpayer is required to meet his burden of proof at the State administrative level for two reasons. First, the State is an impartial adjudicator, and relieving the taxpayer of his burden of proof would place the State in the untenable position of making the taxpayer’s case for him. Second, requiring the taxpayer to meet his burden in the administrative adjudication conserves resources.
4. To meet his burden, the taxpayer must present probative evidence in order to make a prima facie case. In order to establish a prima facie case, the taxpayer

must introduce evidence “sufficient to establish a given fact and which if not contradicted will remain sufficient.” *Clark*, 694 N.E. 2d at 1233; *GTE North, Inc. v. State Board of Tax Commissioners*, 634 N.E. 2d 882, 887 (Ind. Tax 1994).

B. Constitutional and Statutory Basis for Exemption

5. The General Assembly may exempt from property taxation any property being used for municipal, educational, literary, scientific, religious, or charitable purposes. Article 10, Section 1, of the Constitution of Indiana.
6. Article 10, Section 1, of the State Constitution is not self-enacting. The General Assembly must enact legislation granting the exemption. In this appeal, exemption is claimed under Ind. Code § 6-1.1-10-16 which provides that all or part of a building is exempt from property taxes if it is owned, occupied, and used for educational or religious purposes.
7. For property tax exemption, the property must be predominantly used or occupied for the exempt purpose. Ind. Code § 6-1.1-10-36.3.

C. Basis of Exemption and Burden

8. In Indiana, the general rule is that all property in the State is subject to property taxation. Ind. Code § 6-1.1-2-1.
9. The courts of some states construe constitutional and statutory tax exemptions liberally, some strictly. Indiana courts have been committed to a strict construction from an early date. *Orr v. Baker* (1853) 4 Ind. 86; *Monarch Steel Co., Inc. v. State Board of Tax Commissioners*, 669 N.E. 2d 199 (Ind. Tax 1996).
10. Strict construction construes exemption from the concept of the taxpayer citizen. All property receives protection, security and services from the government, e.g., fire and police protection and public schools. This security, protection, and other

services always carry with them a corresponding obligation of pecuniary support -- taxation. When property is exempted from taxation, the effect is to shift the amount of taxes it would have paid to other parcels that are not exempt. *National Association of Miniature Enthusiasts v. State Board of Tax Commissioners*, 671 N.E. 2d 218 (Ind. Tax 1996). Non-exempt property picks up a portion of taxes that the exempt property would otherwise have paid, and this should never be seen as an inconsequential shift.

11. This is why worthwhile activities or noble purpose is not enough for tax exemption. Exemption is justified and upheld on the basis of the accomplishment of a public purpose. *National Association of Miniature Enthusiasts*, 671 N.E. 2d at 220 (citing *Foursquare Tabernacle Church of God in Christ v. State Board of Tax Commissioners*, 550 N.E. 2d 850, 854 (Ind. Tax 1990)).
12. The taxpayer seeking exemption bears the burden of proving that the property is entitled to the exemption by showing that the property falls specifically within the statute under which the exemption is being claimed. *Monarch Steel*, 611 N.E. 2d at 714; *Indiana Association of Seventh Day Adventists v. State Board of Tax Commissioners*, 512 N.E. 2d 936, 938 (Ind. Tax 1987).
13. The term “religious” generally has reference to man’s relationship and belief in a supernatural or superhuman being that exercises power over human beings by imposing rules of conduct with future rewards and punishments. See *City Chapel Evangelical Free Inc. v. City of South Bend*, 744 N.E. 2d 443 (Ind. 2001)(“worship” is the act of paying divine honors to the Supreme Being); *Grutka v. Clifford*, 445 N.E. 2d 1015 (Ind. App. 1983)(ecclesiastical matters are those which concern doctrine, creed, or form of worship of the church); *Minersville School District v. Gobitis*, 108 F. 2d 683 (3d Cir. 1939); *McMasters v. State of Oklahoma*, 21 Okla. Crim. 318, 207 P. 566 (Okla. Crim. App. 1922).

D. Conclusions Regarding the Exemption Claim

14. In *LeSea Broadcasting v. State Board of Tax Commissioners*, the Court presents a “reasonably necessary” test for determining exempt status. That is, a certain property may be found to be exempt if it is determined to be reasonably necessary to the exempt purpose. 525 N.E. 2d 637 (Ind. Tax 1988).
15. In the case at hand, the disputed property is used solely by the Church to house visiting ministers. Its use is directly in furtherance of the religious purpose of the Church. Therefore, it can be said to be “reasonably necessary” to the Church’s religious purpose.
16. Consequently, the disputed property is determined to be “reasonably necessary” to the exempt purpose of the Church, and as such, it is wholly exempt from property taxation.

The above stated findings and conclusions are issued in conjunction with, and serve as the basis for, the Final Determination in the above captioned matter, both issued by the Indiana Board of Tax Review this ____ day of _____, 2002.

Chairman, Indiana Board of Tax Review